IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 490 OF 2007

SHRI. PARSHURAM SHETKAR ... Petitioner
Versus
STATE OF GOA THROUGH SECRETARY
(HEALTH GOVT. OF GOA) AND ANR., ... Respondents

Mr. Agnelo F. Diniz,Advocate for the petitioner.
Mr.S. S. Kantak, Advocate General With Ms. Rakhi Chodankar, Addl. Govt. Advocate for the respondents.

Coram:- R. S. MOHITE &
N. A. BRITTO, JJ.

Date:- 17th October, 2007

P.C.

Heard both sides. This writ petition is impugning termination order dated 10.9.2007 cancelling the petitioner's service as X-ray technician. It appears that, he was appointed as X-ray technician on 18.7.2007. He has been immediately terminated from the service by the impugned order after it was found that he had failed in one subject in his 12th standard. The recruitment rules prescribes that 12th standard is the minimum qualification. Admittedly, there is no provision to relax the recruitment rules.

The petitioner's Advocate relies upon a judgment passed by the Apex Court in the case of Vishwanath Bagade Versus State of Goa delivered in C.A. No.5730/99. Facts therein were different and were as follows -

The appellants were appointed as a Round Forester. The chest and height measurement were slightly less than what were required. That appointment was done after medical test. The Supreme Court held that

under these circumstances, it must be presumed that the state thought that they had right to relax the physical standards.

The aforesaid application was decided on different set of facts. In that case, the state itself had conducted the measurement. In the present case, the passing minimum education qualification exam is not complied with by the appellants. The appointment was wrongly done and the mistake is corrected by the State. Hence, petition is rejected.

Leave to amend as per the draft. Amendment to be carried out within one week.

R. S. MOHITE, J.

N. A. BRITTO, J.

SMA